



ADVISORY NOTICE

CLOUD SERVICE REGULATION INTRODUCED TO INCREASE ACCOUNTABILITY FOR USER DATA SECURITY AND SUSTAINABILITY OF SERVICES

Frequently Asked Questions (FAQ)

1. Why did MCMC impose the regulation on cloud services?

In line with MyDIGITAL initiatives, Government of Malaysia is moving towards “Cloud First Policy” whereby the reliance on cloud services will increase exponentially. There is a concern on data safety and trust considering high adoption by consumers on cloud services in their daily activities more so with public data in the cloud. This regulatory approach will ensure cloud service providers maintain a high level of data security, data privacy, data protection and data flows whilst being able to provide a legal protection for consumers and public agencies.

2. Why is MCMC undertaking regulation of cloud services through licensing?

By licensing cloud service providers, MCMC has the flexibility to issue technical standard, which can be co-developed with the industry. Imposition of any requirement to comply with such standard can only be achieved via licensing approach. This will ensure best practices being adopted by the cloud service providers.

3. What is the salient feature of the light touch approach by MCMC?

MCMC is adopting no worse off policy approach in licensing of the cloud service providers, thus, activities that are currently exempted under the current licensing framework will remain as is and services already exempted remain exempted.

4. What is the regulatory approach for cloud service providers?

Cloud service is a new service to be licensed to address the potential regulatory loopholes that data stored in cloud is not being protected. MCMC is implementing light touch regulation on cloud services by licensing it under the Applications Service Providers Class licence ['ASP (C)'] which will provide easy market access and promote industry growth.

5. What does Applications Service Providers Class licence mean for a cloud service provider?

This is a licence that allows the entity to be registered easily, allows for no restriction of foreign shareholding and a waiver on USP fund contribution specific for this cloud service. It is renewable annually.

6. Will the “web hosting and client server” activities remain exempted?

Yes. Under the proposed light touch regulations, the licensing requirement under the ASP (C) licence will be imposed on the cloud service activity only. Web hosting and client server activity will remain as exempted applications services under the Communications and Multimedia (Licensing) (Exemption) Order 2000.

7. What is the definition of cloud services?

For the purpose of regulation, MCMC has defined cloud services as follows:

Cloud Services means any service made available to end users on demand via the Internet from a cloud computing provider's server

8. Who is required to apply for the ASP (C) licence?

Persons providing the cloud services with local presence or through local data centre in Malaysia are required to be registered under the ASP (C) licence. Illustrations as follows:

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- **Company A** is a locally incorporated company providing cloud service applications to end users. Company A would require to be registered under the ASP (C) licence.
- **Company B** does not have any local presence but is providing cloud service applications through a local data centre, **Company C**, to end users. Company C would require to be registered under the ASP (C) licence.

Company D does not have local presence and does not provide the cloud service applications through local data centre to end users. **Company D** may be required to be registered under the ASP (C) licence and therefore will not be given any regulatory protection to both the user and provider of the service

9. When will the regulation be implemented/ take effect?

The regulation will be in force beginning 1 January 2022.

10. How to apply for the ASP (C) licence?

ASP (C) Licence Application

Application for ASP (C) licence can be made by submitting the following document to the Licensing Department, MCMC:

- i. Two (2) copies of FORM D of the Third Schedule of the Communications and Multimedia Act 1998 (CMA98);
- ii. Registration fee of RM2,500.00 yearly;
- iii. Checklist on Registration Notice;
- iv. Statutory forms under the Companies Act 2016;
- v. Company Profile and Organisation Chart;
- vi. Brief Description of type of services being provided (in this case, cloud services).

The registration process will take 14 days for new registration and 7 days for annual re-registration application. Application information, documents and checklist can be downloaded from the MCMC website.

11. What is the tenure or validity period of the licences?

Validity period for ASP (C) licence is one (1) year. Licensee is required to submit the registration application yearly.

12. Will there be any foreign restriction in shareholding in the licence?

There will be no restriction in shareholding under the ASP (C) licence.

13. What if the services are being provided without the necessary licence?

Provisioning of licensable activities without licence is an offence under the CMA98. Service providers are advised to get the necessary licence(s) before commencing their operation.

14. Is MCMC's objective of licensing cloud services to facilitate search and seizure by law enforcement agencies?

Licensing the services will enable MCMC to address any issues raised by the industry on data privacy and security. Under the CMA 1998, licensees will be accorded regulatory protection by ensuring local and foreign law enforcement agencies to adhere with any standards developed by the industry through the official platform provided by MCMC; Malaysian Technical Standards Forum Berhad (MTFSB).

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